In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-442

SYNTHA ESSEX, PETITIONER

v.

RICHARD P. VINAL, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

We invite the Court's attention in the following facts, which indicate that the petition for a writ of certiorari was filed out of time. The judgment of the court of appeals was entered on June 6, 1974 (Pet. App. 5a). A petition for rehearing was denied on July 17, 1974 (Pet. 2). The 90-day period provided by 28 U.S.C. 2101(c) for petitioning in civil cases expired on October 15, 1974, and no extension of time was obtained. The petition was not filed until October 17, 1974.

Since the time limit specified by 28 U.S.C. 2101(c) is jurisdictional, the petition should be denied.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

DECEMBER 1974.